

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE MAY 6, 2009

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE APRIL 1, 2009

**SENATE BILL**

**No. 459**

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**Introduced by Senator Wolk**  
*(Coauthor: Assembly Member Jones)*

February 26, 2009

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An act to amend Section 6302.1 of, and to add Sections 6302.2, 6302.3, ~~and 6302.4~~ 6302.4, and 6302.5 to, the Public Resources Code, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 459, as amended, Wolk. Tidelands and submerged lands: removal of vessels.

Existing law authorizes the State Lands Commission to remove from areas under its jurisdiction any vessel, boat, raft, or other similar watercraft that is left unattended and is moored, docked, or beached as to obstruct traffic or to create a hazard to other vessels or property, that poses critical and immediate danger to navigation or the public health, safety, or welfare, or that hinders navigation or creates a public nuisance.

This bill would revise those provisions to authorize the commission to remove those watercraft in those and similar conditions immediately and without notice. The bill would authorize the commission to remove and dispose of those watercraft and to remove and dispose from areas under its jurisdiction watercraft that have been placed on state lands

without its permission if prior to removal the commission gives a 30-day notice by posting notice on the watercraft and notifying the owner and any lienholder, if known.

Existing law authorizes the commission, through appropriate action in the courts, to remove or destroy a vessel, boat, watercraft, or other similar obstruction that hinders navigation or otherwise creates a public nuisance in areas under the commission's jurisdiction.

This bill would, instead, provide that a hulk, derelict, wreck, or parts of a ship, vessel, or other watercraft sunk, beached, grounded, or floating and allowed to remain in an unseaworthy or dilapidated condition in areas under the commission's jurisdiction for a period longer than 30 days without its consent is abandoned property. The bill would establish procedures for the commission to sell, destroy, or otherwise dispose of this property. The bill would require that any proceeds from the sale of this property, less the commission's costs, be deposited into the General Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6302.1 of the Public Resources Code is
- 2 amended to read:
- 3 6302.1. (a) (1) The commission may take immediate action,
- 4 without notice, to remove from areas under its jurisdiction a vessel,
- 5 boat, raft, or other similar watercraft that is left unattended and is
- 6 moored, docked, beached, or made fast to land in a position as to
- 7 obstruct the normal movement of traffic or in a condition as to
- 8 create a hazard to navigation, other vessels using a waterway, or
- 9 the property of another.
- 10 (2) The commission may take immediate action, without notice,
- 11 to remove from areas under its jurisdiction a vessel, boat, raft, or
- 12 other similar watercraft that poses a significant threat to the public
- 13 health, safety, or welfare or to sensitive habitat, wildlife, or water
- 14 quality, or that constitutes a public nuisance.
- 15 (3) After removal of the vessel, boat, raft, or other similar
- 16 watercraft pursuant to paragraph (1) or (2), the commission shall
- 17 mail a notice to the owner, if known, and any known lienholder,
- 18 that informs the owner and lienholder that the commission may

1 dispose of the vessel, boat, raft, or other similar watercraft pursuant  
2 to Section 6302.3 if it remains unclaimed for 30 days.

3 (b) (1) The commission may remove from areas under its  
4 jurisdiction a vessel, boat, raft, or other similar watercraft or a  
5 buoy, anchor, mooring, or other ground tackle used to secure a  
6 vessel, boat, raft, or other similar watercraft that has been placed  
7 on state lands without its permission. Prior to removal of the vessel,  
8 boat, raft, or other similar watercraft or buoy, anchor, mooring, or  
9 other ground tackle, the commission shall give a 30-day notice by  
10 attaching it to the vessel, boat, raft, or other similar watercraft or  
11 to the buoy, anchor, mooring, or other ground tackle. If the owner  
12 or any lienholder is known, the commission shall also mail a notice  
13 to the owner and the lienholder.

14 (2) After the expiration of the 30 days' notice period as provided  
15 in paragraph (1), the commission may remove the vessel, boat,  
16 raft, or other similar watercraft or a buoy, anchor, mooring, or  
17 other ground tackle or allow it to remain in place until disposed  
18 of as provided in Section 6302.3.

19 (c) Pursuant to Section 6302.3, the commission may dispose of  
20 a vessel, boat, raft, or other similar watercraft or a buoy, anchor,  
21 mooring, or other ground tackle that is subject to being removed  
22 under this section that remains unclaimed 30 days after notice.

23 (d) Upon request of the owner and after payment of the costs  
24 of removal and storage, the commission shall return to the owner  
25 a vessel, boat, raft, or other similar watercraft or a buoy, anchor,  
26 mooring, or other ground tackle removed under this section.

27 (e) The commission may recover costs incurred in removal  
28 actions undertaken pursuant to this section through appropriate  
29 action in the courts of this state.

30 (f) For purposes of this section, the following definitions apply:

31 (1) "Appropriate action" means any cause of action available  
32 at law or in equity.

33 (2) "Commission" includes the staff or agents of the commission  
34 or other federal, state, or local agencies operating in concert with  
35 or under the direction of the commission.

36 SEC. 2. Section 6302.2 is added to the Public Resources Code,  
37 to read:

38 6302.2. (a) A hulk, derelict, wreck, or parts of a ship, vessel,  
39 or other watercraft, sunk, beached, grounded, or floating and  
40 allowed to remain in an unseaworthy or dilapidated condition in

1 areas under the commission's jurisdiction for a period longer than  
2 30 days without its consent is abandoned property.

3 (b) Pursuant to Section 6302.3, the commission may take title  
4 to abandoned property described in subdivision (a) for the sole  
5 purpose of abatement, and without satisfying any lien on the  
6 property, may cause the property to be sold, destroyed, or otherwise  
7 disposed of in any manner it determines is expedient or convenient.  
8 Title to property transferred by the commission by sale or otherwise  
9 to third parties shall be clear of any lien or encumbrance.

10 (c) Prior to making a disposition of abandoned property pursuant  
11 to Section 6302.3, the commission shall use reasonable means to  
12 identify and locate the owner and any lienholder. If the owner is  
13 located, the commission shall give the owner written notice to  
14 remove the property by a date certain at least 15 days from the  
15 date of the notice. Notice to the owner to remove the property shall  
16 also be posted on the property, if practicable, in a clearly visible  
17 place. If the owner cannot be located or the owner fails to respond  
18 to the mailed or posted notice or fails to remove the property within  
19 the time provided or extended, the commission may direct  
20 disposition of the property pursuant to Section 6302.3.

21 (d) The commission's cost of disposing of abandoned property,  
22 including staff time and legal and attorney's fees, may be recovered  
23 by appropriate action in any court in which an action may be  
24 properly brought or by use of any available administrative remedy.  
25 If the property is sold, the commission may recover its costs from  
26 any proceeds of the sale and any additional funds received shall  
27 be deposited into the General Fund.

28 SEC. 3. Section 6302.3 is added to the Public Resources Code,  
29 to read:

30 6302.3. (a) The commission ~~may~~ *shall* direct disposition of  
31 property ~~and~~ subject to disposal pursuant to Section 6302.1 or  
32 6302.2 at a properly noticed commission meeting. The commission  
33 shall use reasonable means to identify and locate the owner and  
34 any lienholder of property that may be disposed of at that hearing.

35 (b) Notice of that meeting shall be given to a known owner and  
36 known lienholder, and the known owner, lienholder, or other  
37 interested party shall be given the right to appear and be heard  
38 prior to disposition of the property.

39 (c) Any action with regard to the disposition of the property as  
40 directed by the commission, with the exception of returning the

1 property to the owner, shall be delayed for 30 days after the date  
2 of the commission's determination, to permit response by the  
3 owner.

4 SEC. 4. Section 6302.4 is added to the Public Resources Code,  
5 to read:

6 6302.4. (a) At the request of the commission, an employee or  
7 agent of the commission or a peace officer of the federal or state  
8 government or a city, county, or other political subdivision of the  
9 state shall have the authority to board a vessel for the purposes of  
10 carrying out Section 6302.1, 6302.2, or 6302.3.

11 (b) An action of the commission with regard to any property  
12 acquired or disposed of pursuant to Section 6302.1, 6302.2, or  
13 6302.3, is exempt from the requirements of the California  
14 Environmental Quality Act (Division 13 (commencing with Section  
15 21000)), and from any other law or regulation that governs the  
16 acquisition, disposal, or destruction of property by a state agency.

17 SEC. 5. Section 6302.5 is added to the Public Resources Code,  
18 to read:

19 6302.5. *It is the intent of the Legislature that to the extent*  
20 *Sections 6302.1, 6302.2, 6302.3, and 6302.4 may be in conflict*  
21 *with Article 1 (commencing with Section 510) of Chapter 3 of*  
22 *Division 3 of the Harbors and Navigation Code, Sections 6302.1,*  
23 *6302.2, 6302.3, and 6302.4 shall govern.*